

REMARKS

The office action has been carefully considered and applicant expresses appreciation for the recognition that claim 36 contains allowable subject matter. The claim has been amended to place it in independent form including the features of claims 32, 33 and 35.

The examiner has again rejected independent claims 32 and 42 under 35 U.S.C. 102(b) as being anticipated by Clark, as well as by the Japanese 202 patent. It is believed that these rejections are improper and do not comply with the law of anticipation. The law of anticipation has been developed principally by the Court of Appeals for the Federal Circuit and is briefly set forth as follows:

An invention is anticipated if the same device, including all the claim limitations, is shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claims in question. *Scripps Clinic and Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991); *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983). The identical invention must be shown by the prior art reference in as much detail as is contained in the patent claim. *Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989); *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1267 (Fed. Cir. 1991); *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780 (Fed. Cir. 1985). M.P.E.P. § 2131 also states that “[t]he identical invention must be shown in

as complete detail as is contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

Applying the law of anticipation to claim 32, it is clear that these rejections are improper. Claim 32 reads as follows with emphasis added:

32. A circular saw comprising:
a housing;
a motor disposed within said housing and configured for rotating a circular saw blade rotatably driven by said motor;
a foot having a generally flat bottom surface; and
a saw blade adjustment detent mechanism pivotally interconnecting said foot to said housing such that the circular saw blade is adjustable to said foot through a range of saw blade positions relative to said foot, said saw blade adjustment detent mechanism including a detent holding assembly carrying a pivotable saw blade adjustment detent with a pivot axis on one end portion, a transverse ridge spaced from said pivot axis and a spring for biasing said detent into engagement with one of a plurality of spaced position recesses, and an arcuate member defining the plurality of spaced position recesses, each matingly and releasably engageable with said transverse ridge of said saw blade adjustment detent to provide predetermined position settings within said range of positions, *said detent being disengaged from one of said position recesses when said foot is moved responsive to a user applying a releasing force to said foot without initiating any other action.*

Neither of the references are believed to anticipate, teach or suggest the language "said detent being disengaged from one of said position recesses when said foot is moved responsive to a user applying a releasing force to said foot without initiating any other action." With regard to the rejection based upon Clark, the examiner states that "Clark teaches a device including a foot (e.g., 22) capable being moved responsive to a user applying a releasing force to the foot to release the foot from a position on a supporting surface to another position on the supporting surface without initiating any other action while the detent being disengaged from one of the position recesses." The examiner also states that

"claim 32 does not preclude other releasing force other than a force to release the detent from one of the position recesses". Both of these quotes are believed to ignore the actual language of the claim.

With regard to the first statement by the examiner "Clark teaches a device including a foot (e.g., 22) capable being moved responsive to a user applying a releasing force to the foot to release the foot from a position on a supporting surface to another position on the supporting surface while the detent (sic) being disengaged from one of said position recesses" is also contrary to the common sense meaning of the claim. The claim language clearly indicates that the detent is disengaged from one of the position recesses *when* the foot is moved responsive to a user applying a releasing force to said foot without initiating any other action. It is a cause and effect circumstance and is believed to be clearly stated. The claim clearly states that it has the *capability* of being disengaged responsive to the applying a releasing force to said foot without initiating any other action and clearly the Clark reference does not have this capability and therefore fails to meet the claim.

It is believed that the movement of the Clark foot (i.e., the leg portions 22) is effectively moving the whole saw on the supporting surface (such as a table), is contrary to common sense and is an illogical application of Clark to the claim. Clearly, moving the entire saw around on a surface has nothing to do with disengaging a detent from one of the position recesses and such movement would *not* disengage a detent without some other action being initiated.

With regard to the '202 patent, the examiner states that it does

"teach a device of capable disengaging the detent from one of the position recesses when the foot is moved responsive to a user applying a releasing force to the foot without initiating any other action/as a direct result of a user applying a releasing force to the foot without initiating any other action. For example, *a user can apply a force to move the foot from a position shown on Figure 4 to left direction while the detent (e.g., 11) being stationary.* Such an action will release the detent from the position shown on Figure 5 to a position shown on Figure 6." (emphasis added)

This rejection is also believed to be flawed as common sense dictates that the condition where the detent is "being stationary" while the foot is moved is in fact *other action*. For the foot to move to disengage the detent from one of the position recesses, it is necessary to depress the detent 11 inwardly and that cannot be done without separate force being applied relative to the saw itself so that the detent will move inwardly to release the detent mechanism. Again, the examiner uses a contrived analysis in an attempt to meet the claim and it is believed to be totally improper.

Claim 42 is directed to a circular saw and set forth below, with portions being italicized for emphasis.

42. (Previously presented) A circular saw comprising:
a housing;
a motor disposed within said housing and configured for rotating a circular saw blade rotatably driven by said motor;
a foot movably attached to said housing and having a generally flat bottom surface; and
an adjustment detent mechanism pivotally interconnecting said foot to said housing such that the circular saw blade is adjustable relative to said foot through a range of positions, said adjustment detent mechanism including a detent holding assembly carrying a

pivotable adjustment detent with a pivot axis on one end portion, a transverse ridge spaced from said pivot axis and a spring for biasing said detent into engagement with one of a plurality of spaced position recesses, and an arcuate member secured to said foot and defining the plurality of spaced position recesses, each matingly and releasably engageable with said transverse ridge of said adjustment detent to provide predetermined position settings within said range of positions, *said detent being disengaged from one of said position recesses as a direct result of a user applying a releasing force to said foot which moves said foot without any other action.*

This claim recites that "said detent being disengaged from one of said position recesses as a direct result of a user applying a releasing force to said foot which moves said foot without any other action." Clearly, the disengagement is produced as a result of the releasing force moving the foot without any other action. The arguments that have been made with regard to claim 32 are believed to equally apply here and it is therefore believed that this claim is also not anticipated by either Clark or the '202 patent.

Since the dependent claims necessarily include the features of the claims from which they depend, and in addition recite other features and/or functionality, it is believed that the pending dependent claims are in condition for allowance.

For all of the foregoing reasons, applicants respectfully request reconsideration and allowance of all unallowed claims. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

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